

**UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF WISCONSIN**

JOEL J. KIEFER, SR.,

Plaintiff,

v.

LINCOLN NATIONAL LIFE  
INSURANCE COMPANY,

Defendant.

Case No. 18-CV-598-JPS

**ORDER**

On April 23, 2018, Defendant filed a motion to dismiss this action pursuant to Federal Rule of Civil Procedure 12(b)(6), asserting that Plaintiff's breach of contract action concerning payment of disability benefits was preempted by the Employment Retirement Income Security Act of 1974 ("ERISA"). (Docket #6 and #7). Defendant further contends that Plaintiff's claim is time barred per the parties' contract and that he failed to exhaust his administrative remedies as required by ERISA. *Id.* By operation of this District's Local Rules, Plaintiff's response to the motion was due on or before May 14, 2018. Civ. L. R. 7(b). No response was filed by that date.

On May 21, 2018, Defendant filed a statement indicating that Plaintiff's response was late. (Docket #12). As of today's date, Plaintiff has still declined to file a response or otherwise communicate with the Court. Local Rule 7(d) provides that failure to file a response to a motion is, standing alone, sufficient grounds to grant the motion. The Court finds that dismissal on this basis, rather than an assessment of the merits of Defendant's motion, is most prudent at this juncture. The Court will,

therefore, grant Defendant's motion pursuant to Local Rule 7(d) and dismiss this action with prejudice.

Accordingly,

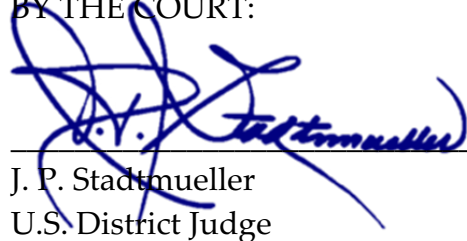
**IT IS ORDERED** that Defendant's motion to dismiss (Docket #6) be and the same is hereby **GRANTED**; and

**IT IS FURTHER ORDERED** that this action be and the same is hereby **DISMISSED with prejudice**.

The Clerk of the Court is directed to enter judgment accordingly.

Dated at Milwaukee, Wisconsin, this 31st day of May, 2018.

BY THE COURT:



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J. P. Stadtmueller  
U.S. District Judge